

U.S. Department of the Interior, Bureau of Land Management  
Kremmling Field Office  
2103 E. Park Ave, PO Box 68, Kremmling, CO 80459

**CATEGORICAL EXCLUSION**  
***MacFarlane Reservoir Repair***  
**DOI-BLM-CO-N02-2015-0022-CX**

**Identifying Information**

**Project Title:** MacFarlane Reservoir Repair

**Legal Description:** T. 7 N., R. 79 W., Sec. 30, 6<sup>th</sup> P.M.; Jackson County, Colorado.

**Applicant:** Bureau of Land Management (BLM), U.S. Fish and Wildlife Service (USFWS), and Evans Land Company.

**Conformance with the Land Use Plan**

The Proposed Action is subject to and is in conformance (43 CFR 1610.5) with the following land use plan:

**Land Use Plan:** Kremmling Record of Decision and Approved Resource Management Plan (ROD/RMP)

**Date Approved:** July 8, 2015

**Decision Language:** ARMP Section 2.2.8.4, page 74

The RMP designated the Hebron Waterfowl Area as a watchable wildlife area. The objective for the area is to provide the special management necessary in order to protect the area's wildlife resources and values so that the area will not be disqualified from designation. "Manage vegetation produced in order to provide optimum habitat for waterfowl and upland bird species; and to provide optimum winter forage for big game animals, including mule deer and Rocky Mountain elk."

The MacFarlane Reservoir is one of the most important molting areas for ducks and geese in North Park, and the stored water is used to provide a dependable water source to the BLM's Hebron Waterfowl Area.

## **Proposed Action**

### ***Project Components and General Schedule***

The MacFarlane Reservoir is located on public lands and is owned by the U.S. Fish and Wildlife Service and Blaine Evans (see Map A). The BLM has a water use agreement with the USFWS, entitling the BLM to the use of 30% of the USFWS's portion of the water. The reservoir is considered a significant hazard dam by the Colorado Dam Safety Branch and the state's inspection reports have threatened a restriction in storage unless identified problems are remedied. The BLM, USFWS, and Evans Land Company are all responsible for maintaining the dam.

In 2014, a contracted field inspection and engineering report identified the specific work that needed to be done to stabilize the dam and meet the USFWS's dam safety standards and the Colorado Dam Safety Branch Rules. The proposed work includes:

1. Riprap repair of areas where beaching is occurring on the upstream slope of the north embankment;
2. A new drainage system along the toe of the main dam and north embankment;
3. Stability berms along the toe of the main dam and north embankment, if needed;
4. Reinforced concrete control section for the spillway in the right (south) abutment of the dam;
5. Lining of the low-level outlet conduit;
6. Repair or replacement of the upstream slide gate to minimize gate leakage;
7. Demolition of the existing terminal structure at the downstream end of the low-level outlet works;
8. A new reinforced concrete terminal structure at the downstream end of the low-level outlet works;
9. A new reservoir staff gage on the upstream slope of the dam; and
10. Gravel and some road base added to the two-track access road to the dam from Highway 125 to allow the delivery of construction materials and equipment.

The contracted engineering firm has provided a map indicating the areas of work and the limits of disturbance (Map B). Most of the work is along the upstream and downstream sides of the dam. The proposed staging and stockpile area for materials and vehicles (between points 8 and 9, Map B) is in a historically disturbed area where riprap material has been stored.

The engineering firm used a backhoe to test the material in Borrow Area No. 1 and in the Spillway Area in the spring of 2015. If suitable material was found, it will be used to construct berms along the downstream toe of the dam, on top of the new toe drains. This material will help stabilize the dam. If suitable material is not found, then material will be brought from private pits. The borrow pits in the Spillway Area would also help determine the depth to bedrock. This information will help with the design of the emergency spillway, which is planned to be rerouted and concreted. The spillway is planned to start at its current location and turn more north (See Diagram C).

The proponents plan on obtaining state approval for the dam repair in August, 2015, and some riprap on the upstream portion of the dam could be installed in the fall of 2015. The access road

improvements are expected to be limited to adding gravel to low lying areas of the existing road surface. The remainder of the construction is planned for Fall, 2016.

### ***Design Features***

1. All construction work will be scheduled for late summer (after July 15) to avoid the nesting period.
2. Vegetation disturbances will be minimized and all disturbed areas will be reseeded with a BLM approved seed mix.
3. All construction equipment must be clean prior to entering the project area to prevent the spread of noxious or invasive species.
4. The BLM would inspect disturbed areas for noxious weeds for two growing seasons after the project is completed. If noxious weeds are found, it would be the responsibility of the BLM to treat the weed infestations.
5. BLM would close access roads from the west during the 2016 construction work. The USFWS would close access from the east during this period too.
6. All surface disturbances would occur within the delineated work area. No fill material would be placed outside of the work area.
7. Topsoil and vegetative material will be scraped and stockpiled for respreading. Willows and other woody material will be mulched on site and respreads within delineated borrow areas.

### ***BLM Required Conditions of Approval to Mitigate Impacts to Cultural and Paleontological Resources***

1. The applicant is responsible for informing all persons who are associated with the project that they will be subject to prosecution for knowingly disturbing archaeological sites or for collecting artifacts.
2. If any archaeological materials are discovered as a result of operations under this authorization, activity in the vicinity of the discovery will cease, and the BLM Archaeologist will be notified immediately. Work may not resume at that location until approved by the AO. The applicant will make every effort to protect the site from further impacts including looting, erosion, or other human or natural damage until BLM determines a treatment approach, and the treatment is completed. Unless previously determined in treatment plans or agreements, BLM will evaluate the cultural resources and, in consultation with the State Historic Preservation Office (SHPO), select the appropriate mitigation option within 48 hours of the discovery. The applicant, under guidance of the BLM, will implement the mitigation in a timely manner. The process will be fully documented in reports, site forms, maps, drawings, and photographs. The BLM will forward documentation to the SHPO for review and concurrence.
3. Pursuant to 43 CFR 10.4(g), the applicant must notify the AO, by telephone and written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), the operator must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the AO.
4. The applicant is responsible for informing all persons who are associated with the project operations that they will be subject to prosecution for disturbing or collecting vertebrate or

other scientifically-important fossils, collecting large amounts of petrified wood (over 25lbs./day, up to 250lbs./year), or collecting fossils for commercial purposes on public lands.

5. If any paleontological resources are discovered as a result of operations under this authorization, the applicant or any of his agents must stop work immediately at that site, immediately contact the BLM Paleontology Coordinator, and make every effort to protect the site from further impacts, including looting, erosion, or other human or natural damage. Work may not resume at that location until approved by the AO. The BLM or designated paleontologist will evaluate the discovery and take action to protect or remove the resource within 10 working days. Within 10 days, the operator will be allowed to continue construction through the site, or will be given the choice of either (a) following the Paleontology Coordinator's instructions for stabilizing the fossil resource in place and avoiding further disturbance to the fossil resource, or (b) following the Paleontology Coordinator's instructions for mitigating impacts to the fossil resource prior to continuing construction through the project area.

### Categorical Exclusion Review

The Proposed Action qualifies as a categorical exclusion under 516 DM 11.9, J, which allows the BLM to use another agency's exclusion when BLM has the concurrence or co-approval of an action with another DOI agency. The USFWS has a categorical exclusion under 516 DM 6, Appendix 1. 1.4, B. Resource Management (2) that reads, "The operation, maintenance, and management of existing facilities and routine recurring management activities and improvements, including renovations and replacements which result in no or only minor changes in the use, and have no or negligible environmental effects on-site or in the vicinity of the site." The USFWS has agreed that this categorical exclusion is appropriate for the Proposed Action.

The Proposed Action has been reviewed with the list of extraordinary circumstances (43 CFR 46.215) described in the table below.

Extraordinary Circumstance	YES	NO
a) Have significant adverse effects on public health and safety.		X
b) Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands; floodplains; national monuments; migratory birds; and other ecologically significant or critical areas.		X
c) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.		X
d) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		X
e) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		X
f) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		X
g) Have significant impacts on properties listed, or eligible for listing, in the National Register of Historic Places as determined by the bureau.		X

Extraordinary Circumstance	YES	NO
h) Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.		X
i) Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.		X
j) Have a disproportionately high and adverse effect on low income or minority populations.		X
k) Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly affect the physical integrity of such sacred sites.		X
l) Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species.		X

## Interdisciplinary Review

The Proposed Action was presented to, and reviewed by, the Kremmling Field Office interdisciplinary team on 03/16/2015. A complete list of resource specialists who participated in this review is available upon request. The table below lists resource specialists who provided additional review or remarks concerning cultural resources and special status species.

Name	Title	Resource	Date
Bill B. Wyatt	Archaeologist	Cultural Resources, Native American Religious Concerns, and Paleontology	7/07/2015
Darren Long	Wildlife Biologist	Special Status Plant and Wildlife Species	07/02/2015
Zach Hughes	Natural Resource Specialist	Vegetation; invasive species	04/10/2015
Paula Belcher	Hydrologist	Project Lead, Soil, Water, Air, and Riparian Resources	07/27/2015
Susan Valente	Natural Resource Specialist	NEPA Compliance	07/08/2015

**Cultural Resources:** A Class III inventory BLM Report #CR-15-27 was conducted on the proposed action. No new cultural resource sites were located. The project is a **no effect**, there are **no historic properties affected**.

**Native American Religious Concerns:** Tribal consultation was initiated on April 7, 2015, and to date no tribe has identified any area of traditional cultural or spiritual concern.

**Paleontology:** Geologic formations sensitive for fossil resources are present, but will not be impacted by the proposed project. BLM standard “discovery” stipulation is part of the environmental assessment and is to be attached to any authorization allowing project to proceed.

**Special Status Species:** The BLM and the USFWS’s use of MacFarlane Reservoir water has previously been consulted on as depletions to the Platte River that would impact down river endangered species. The BLM’s consultation was completed on March 28, 2002

(FWS/R6/ES/GJ/6-CO-02-003) and modified in 2006 to reflect post-1997 water operations. The USFWS's Arapaho National Wildlife Refuge completed their consultation on June 21, 1999 for their depletions. Blaine Evans's water use is a historic depletion that is covered by the baseline hydrology for the Platte River Recovery Implementation Program. The Proposed Action does not alter the present use of water.

**Greater Sage-Grouse** (*Centocercus urophasianus*): The USFWS's Arapaho National Wildlife Refuge has requested an informal consultation with the USFWS's Ecological Services regarding potential impacts to greater sage grouse by the Proposed Action. The Refuge has proposed a "may affect, but not likely to adversely affect" determination. On February 9, 2015, the USFWS concurred with this determination.

**North Park Phacelia** (*Phacelia formosula*): No individuals or colonies have been identified near the project area. This species would not be impacted by the proposed action.

**Water Quality:** The Proposed Action will require the draining of MacFarlane Reservoir, during which time a large amount of sediment will be deposited into Soap Creek. The following spring, irrigation releases from the reservoir will flush the sediment downstream. The project is covered by a nationwide permit under Section 404 of the Clean Water Act for the proposed fill placement in a wetland. In Colorado, the state does not require a Section 401 Water Quality Certification for discharges into streams when the project is covered by a nationwide permit. In April, 2015, the Colorado Department of Public Health and Environment's Water Control Division verbally confirmed that the sediment discharge from draining the reservoir was covered by the nationwide permit. The construction contractor is responsible for obtaining a stormwater permit for the project and for implementing best management practices to reduce soil erosion and sediment transport from the site. The proposed construction work will have a small potential impact of short duration to water quality in Soap Creek. After the maintenance is completed, the improved stilling basin, spillway design, and additional riprap will improve water quality protection over existing conditions.

**Wetlands:** The Proposed Action includes placing fill material on the toe of the north embankment, which is mapped by the USFWS's National Wetland Inventory as a seasonally flooded wetland. The wetland is located off channel and appears to be created by the reservoir's seepage. The BLM met with the Army Corps of Engineers ("the Corps") on April 9, 2015 to discuss if a nationwide permit was necessary to comply with Section 404 of the Clean Water Act. The Corps agreed that seepage probably supports the wetland, especially as Soap Creek is an intermittent drainage. The Corps also indicated the work may qualify under the agricultural exemption. On June 29, 2015, the EPA and the Corps published the final rule for the "Definition of 'waters of the United States'". Although the BLM maintains the wetland is not jurisdictional, as seepage creates the wetland, there is considerable confusion in how the rule would be applied to the project. To avoid delay, the BLM is applying for Nationwide Permit #3 (Maintenance) to cover the project. There is no pre-construction notification required for the permit, but concurrence from the Corps will be obtained prior to construction.

## **Tribes, Individuals, Organizations, or Agencies Consulted**

To date, no tribe has identified any area of traditional cultural or spiritual concern.

The North Platte River Basin Roundtable has included this project in their Basin Implementation Plan (2014) as a potential consumptive use project in North Park. On May 26, 2015 a presentation was made about the project to the Roundtable by W.W. Wheeler & Associates, Inc., an engineering firm involved with the project. Ducks Unlimited (DU) has joined the USFWS, BLM, and Evans Land Company in partnering on this project. The Roundtable is considering helping fund a portion of Evans' Land Company's costs. The Jackson County Water Conservancy District has also been briefed on this project. The State Engineer's Office has been involved in the proposed project and will issue a permit once the final designs are approved.

### **Compliance with NEPA**

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, J1. This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 43 CFR 46.215 apply.

/s/ Stephanie Odell  
Field Manager

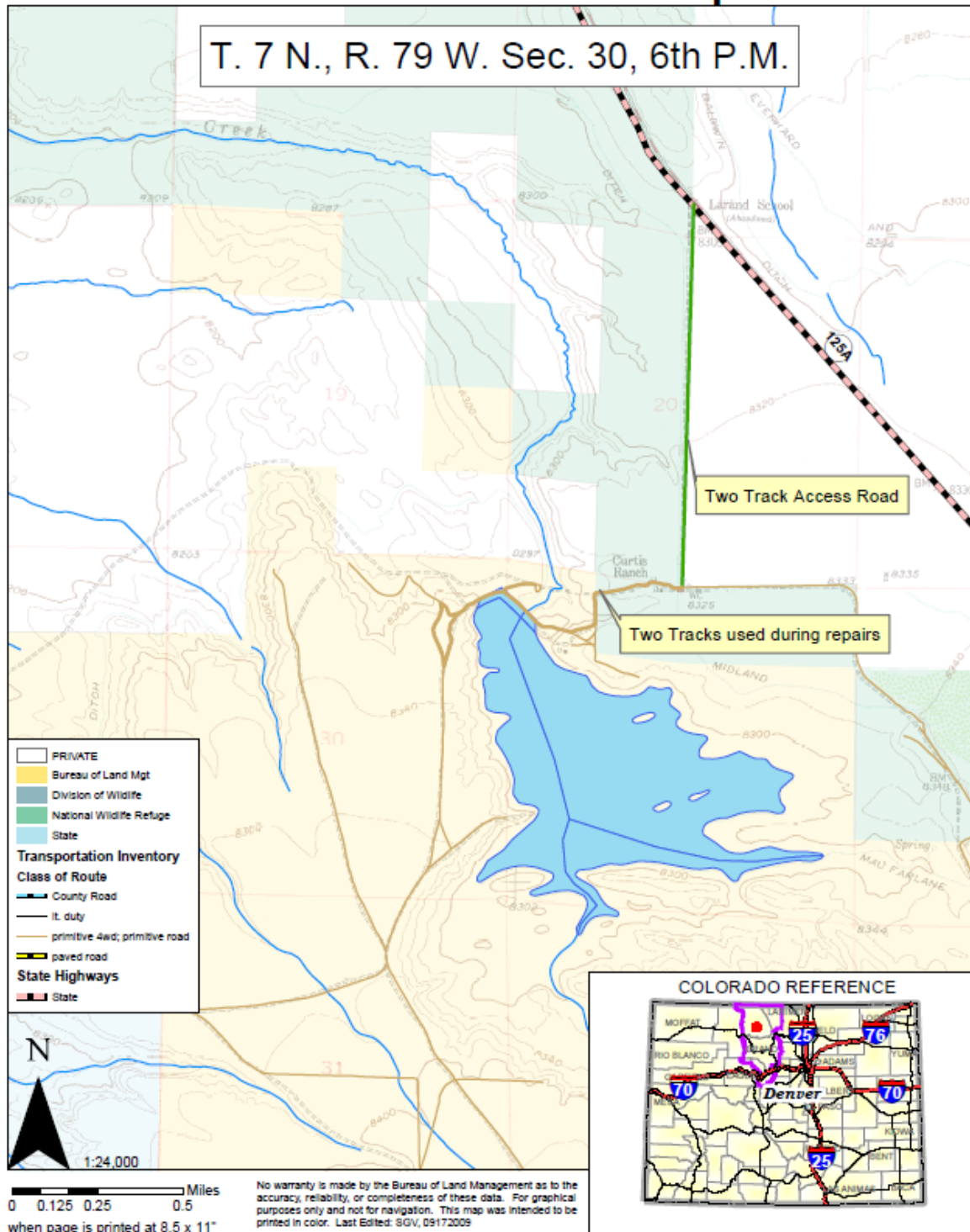
7/28/2015  
Date

## Appendix A. Figures





## MacFarlane Reservoir Repair



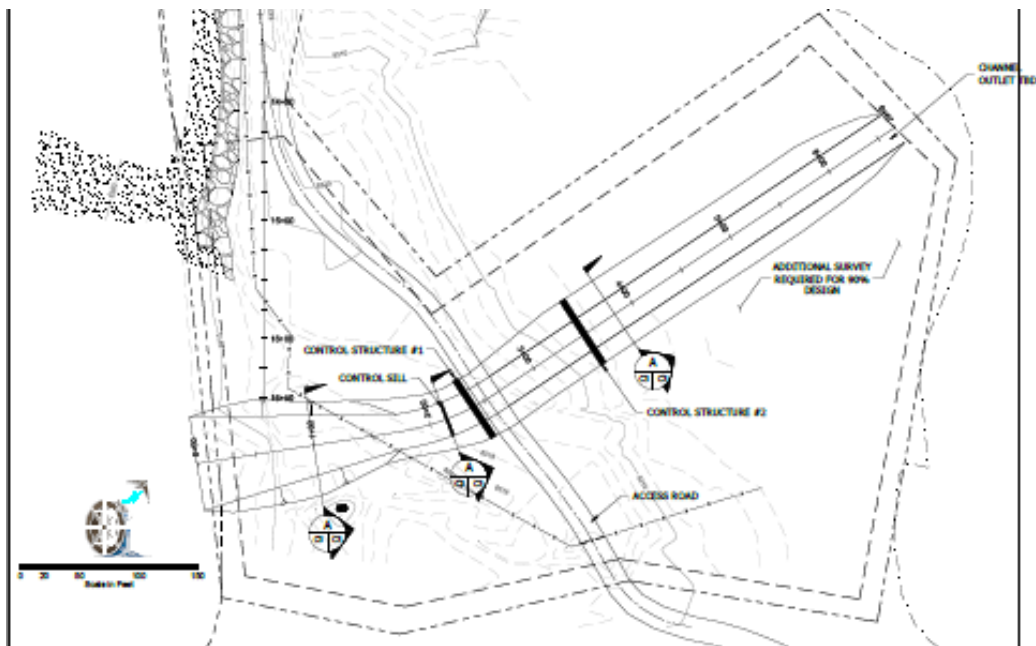
Map A: Reservoir Location



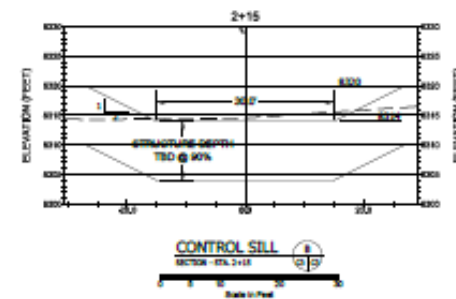
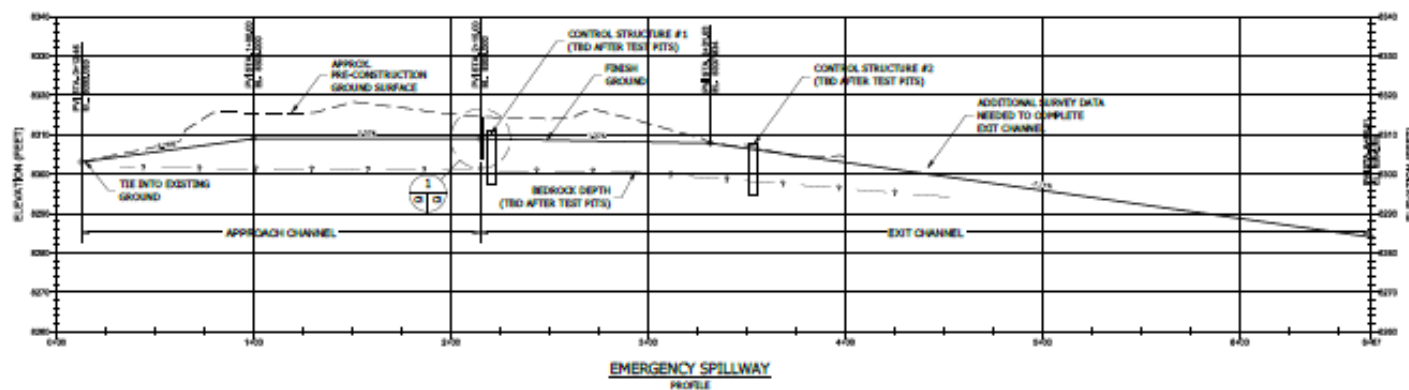
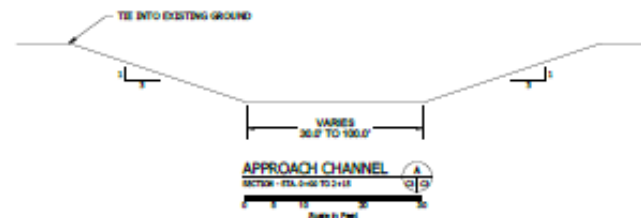




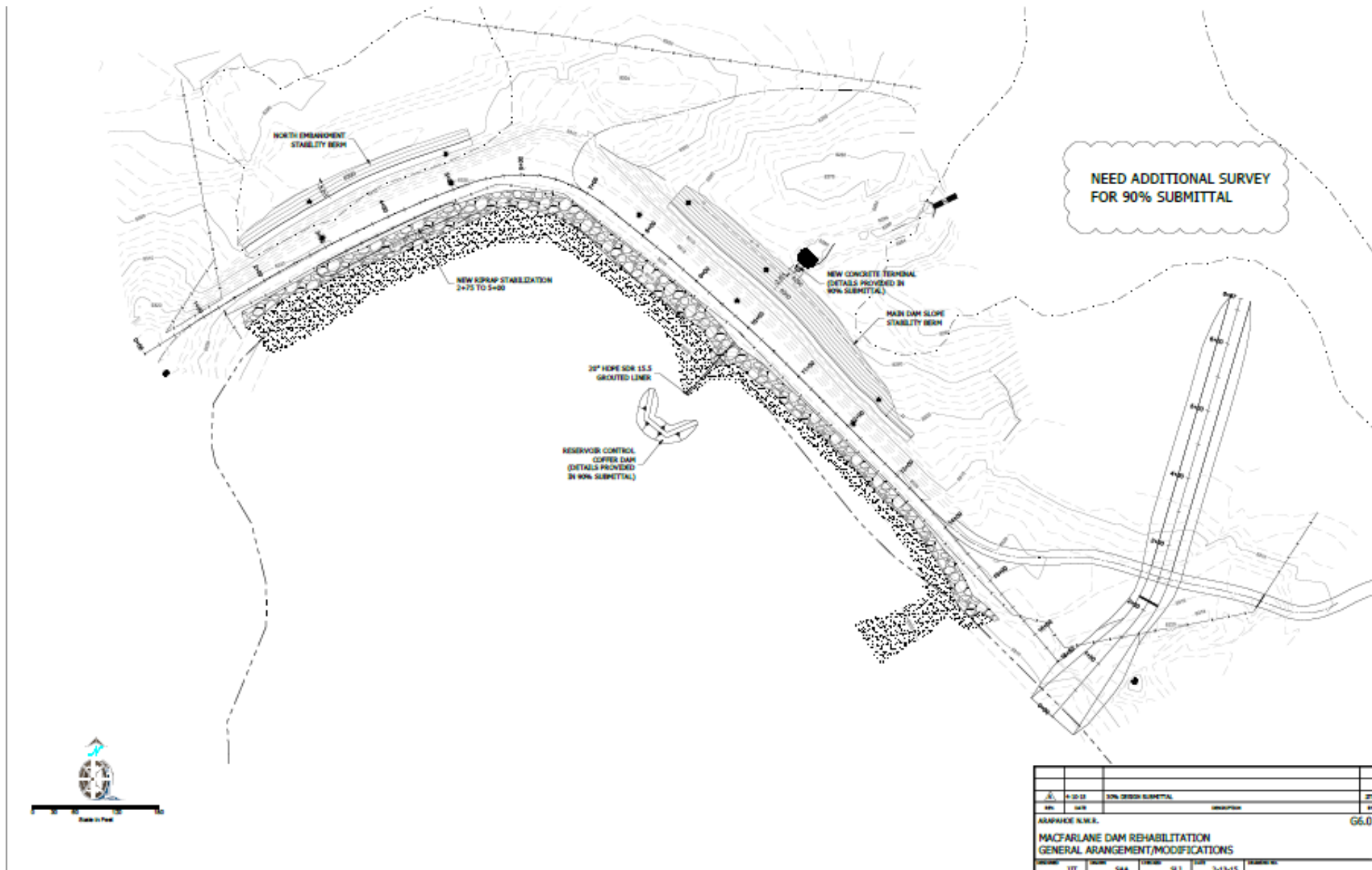


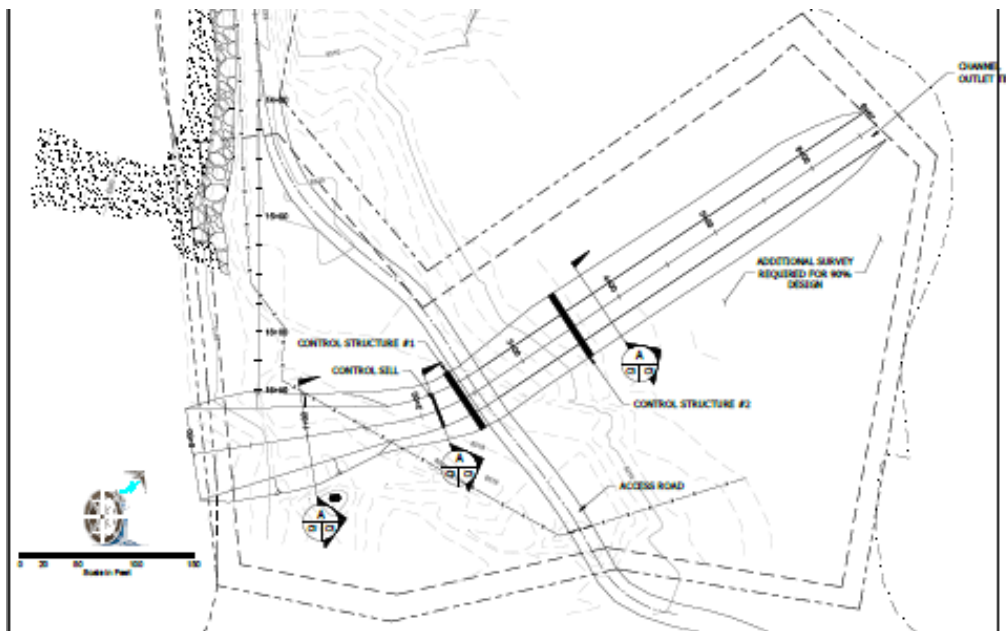


1 EMERGENCY SPILLWAY  
PLAN VIEW

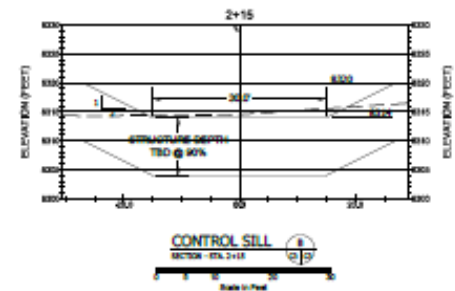
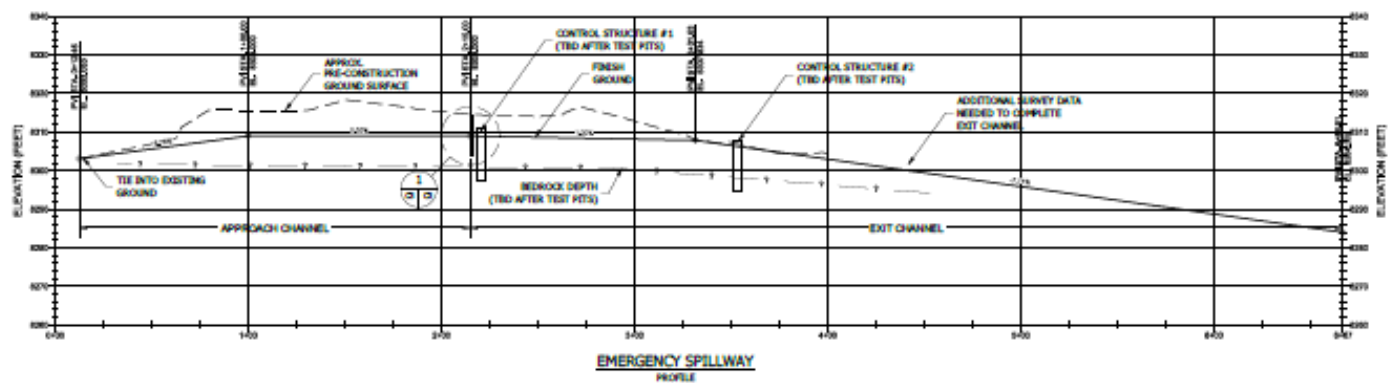
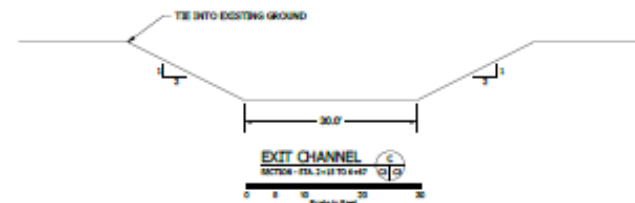
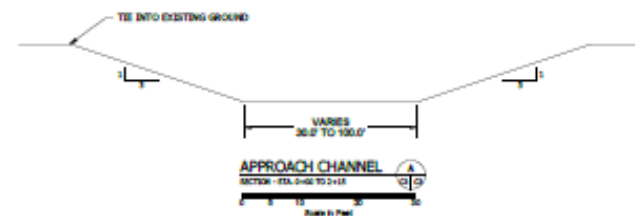


DATE	4-20-15	10% DESIGN SUSPECTAL	27
BY	SAH	DESCRIPTION	61
APPRAISED N.W.E.			
C3.0			
MACFARLANE DAM REHABILITATION			
EMERGENCY SPILLWAY - PROFILE AND SECTIONS			
DESIGNED	377	DRAWN	SAH
CHECKED	SAH	INCHES	3/4
DATE	2-13-15	REVISION	NO.



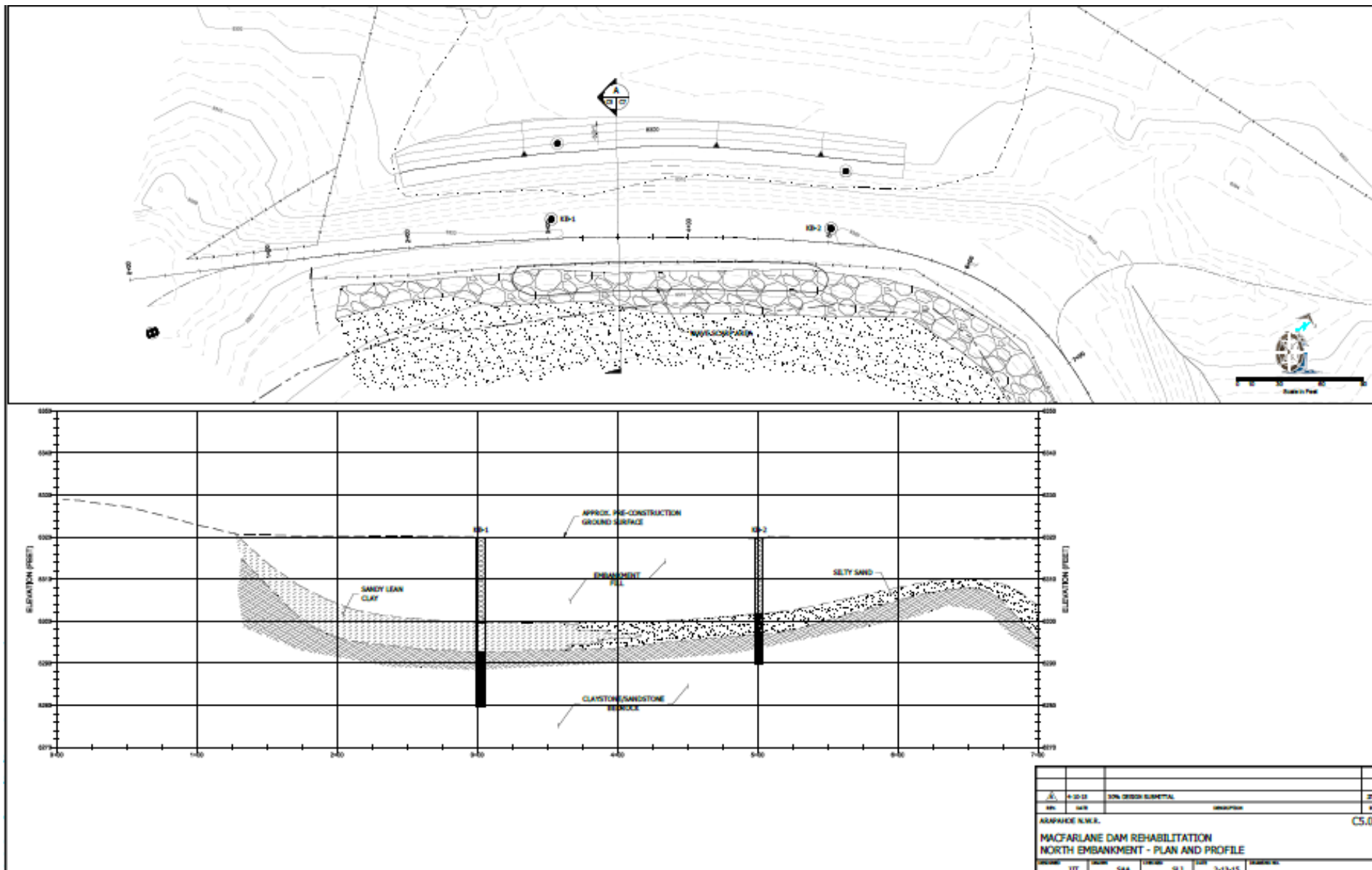


1 EMERGENCY SPILLWAY  
PLAN VIEW



DATE	4-10-15	50% DESIGN SUBMITTAL	27
BY	SA	DESIGNER	27
APPROVED BY			C3.0
MACFARLANE DAM REHABILITATION EMERGENCY SPILLWAY - PROFILE AND SECTIONS			
DESIGNER	27T	SA	SA
CHECKER	SA	SA	SA
DATE	2-13-15	DESIGNER	







U.S. Department of the Interior, Bureau of Land Management  
Kremmling Field Office  
2103 E. Park Ave, PO Box 68, Kremmling, CO 80459

**Decision Record**  
***MacFarlane Reservoir Repair***  
**DOI-BLM-CO-N02-2015-0022-CX**

**Decision**

It is my decision to implement the Proposed Action as described in DOI-BLM-CO-N02-2015-0022-CX, authorizing the repair of the MacFarlane Dam.

***Applicant Committed Design Features***

1. All construction work will be scheduled for late summer (after July 15) to avoid the nesting period.
2. Vegetation disturbances will be minimized and all disturbed areas will be reseeded with a BLM approved seed mix.
3. All construction equipment must be clean prior to entering the project area to prevent the spread of noxious or invasive species.
4. The BLM would inspect disturbed areas for noxious weeds for two growing seasons after the project is completed. If noxious weeds are found, it would be the responsibility of the BLM to treat the weed infestations.
5. BLM would close access roads from the west during the 2016 construction work. The USFWS would close access from the east during this period too.
6. All surface disturbances would occur within the delineated work area. No fill material would be placed outside of the work area.
7. Topsoil and vegetative material will be scraped and stockpiled for respreading. Willows and other woody material will be mulched on site and respreads within delineated borrow areas.

***BLM Required Conditions of Approval to Mitigate Impacts to Cultural and Paleontological Resources***

1. The applicant is responsible for informing all persons who are associated with the project that they will be subject to prosecution for knowingly disturbing archaeological sites or for collecting artifacts.
2. If any archaeological materials are discovered as a result of operations under this authorization, activity in the vicinity of the discovery will cease, and the BLM Archaeologist will be notified immediately. Work may not resume at that location until approved by the AO. The applicant will make every effort to protect the site from further impacts including looting, erosion, or other human or natural damage until BLM determines a treatment approach, and the treatment is completed. Unless previously determined in treatment plans or agreements, BLM will evaluate the cultural resources and, in consultation with the State Historic Preservation Office (SHPO), select the appropriate mitigation option within 48 hours of the discovery. The applicant, under guidance of the BLM, will implement the mitigation in a timely manner. The process will be fully documented in reports, site forms, maps,

drawings, and photographs. The BLM will forward documentation to the SHPO for review and concurrence.

3. Pursuant to 43 CFR 10.4(g), the applicant must notify the AO, by telephone and written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), the operator must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the AO.
4. The applicant is responsible for informing all persons who are associated with the project operations that they will be subject to prosecution for disturbing or collecting vertebrate or other scientifically-important fossils, collecting large amounts of petrified wood (over 25lbs./day, up to 250lbs./year), or collecting fossils for commercial purposes on public lands.
5. If any paleontological resources are discovered as a result of operations under this authorization, the applicant or any of his agents must stop work immediately at that site, immediately contact the BLM Paleontology Coordinator, and make every effort to protect the site from further impacts, including looting, erosion, or other human or natural damage. Work may not resume at that location until approved by the AO. The BLM or designated paleontologist will evaluate the discovery and take action to protect or remove the resource within 10 working days. Within 10 days, the operator will be allowed to continue construction through the site, or will be given the choice of either (a) following the Paleontology Coordinator's instructions for stabilizing the fossil resource in place and avoiding further disturbance to the fossil resource, or (b) following the Paleontology Coordinator's instructions for mitigating impacts to the fossil resource prior to continuing construction through the project area.

## **Compliance with Laws & Conformance with the Land Use Plan**

This decision is in compliance with the Endangered Species Act and the National Historic Preservation Act. It is also in conformance with the July 8, 2015 Kremmling Record of Decision and Approved Resource Management Plan.

## **Public Involvement**

This project was posted on the BLM online National Environmental Policy Act (NEPA) register after its completion. [https://www.blm.gov/epl-front-office/eplanning/lup/lup\\_register.do](https://www.blm.gov/epl-front-office/eplanning/lup/lup_register.do)

## **Rationale**

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, J1. This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 43 CFR 46.215 apply.

By repairing the MacFarlane Dam, the BLM is helping ensure water for the Hebron Sloughs Wildlife Management Area, which supports

### **Administrative Remedies**

Any appeal of this decision must follow the procedures set forth in 43 CFR Part 4. Within 30 days of the decision, a Notice of Appeal must be filed in the office of the Authorized Officer at Kremmling Field Office, 2103 E. Park Ave, PO Box 68, Kremmling, CO 80459 with copies sent to the Regional Solicitor, Rocky Mountain Region, 755 Parfet St., Suite 151, Lakewood, CO 80215, and to the Department of the Interior, Board of Land Appeals, 801 North Quincy St., MS300-QC, Arlington, VA, 22203. If a statement of reasons for the appeal is not included with the notice, it must be filed with the Interior Board of Land Appeals at the above address within 30 days after the Notice of Appeal is filed with the Authorized Officer.

### **Signature of Authorized Official**

/s/ Stephanie Odell  
Field Manager

7/28/2015  
Date